IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

LA.App..No. 789 of 2004()

LAR.151/2002 of PRL.SUB COURT,KOTTAYAM
.....

APPELLANT:

STATE OF KERALA.

BY GOVERNMENT PLEADER SMT.K.R.DEEPA.

RESPONDENTS:

JAYAPRAKASH, PANACHIKKAL HOUSE,
KATTAMJAKKU KARA, NJEEZHOOR VILLAGE,
VAIKOM.

BY ADV. SRI.RAJEEV V.KURUP

THIS LAND ACQUISITION APPEAL HAVING COME UP FOR ADMISSION ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & K.T.SANKARAN, JJ.

L.A.A.No.789 of 2004

Dated 8th March, 2007.

J U D G M E N T

Kurian Joseph, J.

This appeal is directed against the judgment and decree in L.A.R.No.151/02 on the file of the Principal Sub Court, Kottayam. The acquisition was for the purpose of formation of Kuravilangad Major Distributory. Section 4(1) notification was issued on 30.3.1999. The Land Acquisition Officer fixed the land value at the rate of Rs.8,642/- per Are. The reference court enhanced it to Rs.5,185/- per Are. The enhancement is 60%. The claimant produced Ext.A1 document where the land value is Rs.13,750/- per cent. On a detailed discussion regarding the comparability of the land acquired and Ext.A1 document, the reference court held that "the acquired land herein and that involved in Ext.A1 cannot be treated as similar ..." ...."The materials available are not helpful to the claimant to show that the acquired land herein and that in Ext.A1 are similar." Despite such a finding, observing that "For the reasons already discussed above, it has to be concluded that the claimant is not entitled to land value at the rate of the sale consideration in Ext.A1. Still, on account of the fact that the land is not far distant from important

places and taking into account the improvements in the property it has to be concluded that the acquired land herein is more important, entitling the claimant to enhanced land value, though claim under no other head is proved." There is no discussion at all as to the importance of the locality of the acquired land and the improvements in the acquired land, justifying the enhancement. Thus, we are satisfied that the matter requires reconsideration by the reference court. We allow the appeal, set aside the judgment and decree in L.A.R.151/02 on the file of the Principal Sub Court, Kottayam and remit the matter to the reference court for fresh consideration. The case shall be disposed of within a period of six months from the date of receipt of a copy of the judgment. In the interests of justice, we make it clear that it will be open to the parties to adduce fresh evidence.

KURIAN JOSEPH, JUDGE.

K.T.SANKARAN, JUDGE.

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KURIAN JOSEPH & K.T.SANKARAN, JJ

L.A.A. NO. OF 2004

J U D G M E N T

Dated 8th March, 2007.